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HEARING BEFORE SENATE FACT FINDING COMMITTEE

ON HEALTH AND SAFETY

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In the Matter of

LOCATION OF OFFICES OF
DISPENSING OPTICIANS AND OPTOMETRISTS; hearing.

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Los Angeles, ~~California~~

November 14, 1962

HEARING BEFORE SENATE FACT FINDING COMMITTEE
ON HEALTH AND SAFETY

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In the Matter of

SENATE BILL 1062 --
LOCATION OF OFFICES OF
DISPENSING OPTICIANS AND
OPTOMETRISTS

State Office Building Auditorium
107 Broadway
Los Angeles, California
November 14, 1962

BEFORE:

Senator John F. Thompson, Chairman
Senator Waverly Jack Slattery
Senator Vernon L. Sturgeon

ALSO PRESENT:

Miss Della Bradfield, Executive Secretary
William B. Pedigo, Administrative Assistant

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PROCEEDINGS

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(The hearing before the Fact Finding Committee on Public Health and Safety, held in the Auditorium of the State Office Building, 107 Broadway, Los Angeles, California, was called to order by Senator John F. Thompson, Chairman, at 9:30 o'clock a.m., on Wednesday, November 14, 1962, and the following proceedings were had:)

CHAIRMAN THOMPSON: Ladies and gentlemen, will you please be seated. This is the California State Senate Fact Finding Committee on Public Health and Safety. I will introduce the members of the committee to you first of all. We did meet yesterday, but I know we have a new group of visitors entirely today. To my far right is Senator Slattery, representing Mendocino and Lake County. To my right, Senator Vernon Sturgeon, representing San Luis Obispo County. I am Senator Jack Thompson from the great Santa Clara Valley. To my far left is Mr. Bill Pedigo, my administrative assistant, and to my immediate left is Miss Della Bradfield, who is the executive secretary of the Committee on Public Health, and will write the report for you.

In this portion of our hearings, we want to continue to receive testimony in regard to Senate Bill 1062 which is designed to prohibit the practice by optometrists

or dispensing opticians in discount houses. This bill was introduced by Senator Jack McCarthy of San Rafael in the 1961 legislative session and was referred to this committee by the Senate Rules Committee for study.

This bill provides that any dispensing optician or optometrist who maintains an office in any retail store which continuously offers more than seventy-five per cent of its merchandise for sale at discount prices, shall be deemed as offering to render his services under the representation that this service will be at a discount or at less than the average fee charged by other persons licensed as optometrists. In short, this bill would regulate the location of offices of optometrists.

This is the second hearing we have held on Senate Bill 1062. We heard some testimony at our meeting in Al Tahoe in September, including support of the bill from representatives of the California Optometric Association and opposition from the Optometrists for Fair Practice Procedures group.

We have with us today Mr. J. R. Patterson who is executive secretary of State Board of Optometry. Mr. Patterson is not going to testify, but if the members of the committee or the staff do have any questions they would like to ask Mr. Patterson, he will be available.

We will now proceed with the hearing, and I believe

our first witness, because he is anxious to leave, I understand, is Mr. Marvin Burns, of the Allied Consumers Association. Mr. Burns.

MARVIN G. BURNS,

called as a witness by the Committee, was examined and testified as follows:

THE WITNESS: I have a statement here.

CHAIRMAN THOMPSON: Before you proceed, Mr. Burns, if anyone does want transcripts of this hearing, you can make your arrangements directly with the Court Reporter. He has blanks such as this ready, and you can make your own terms. The committee have no objections to anyone obtaining copies of this transcript.

You may go ahead, Mr. Burns.

THE WITNESS: Gentlemen, my name is Marvin G. Burns. I am the attorney for the Allied Consumers Association, which is a trade association of persons, firms and corporations operating twenty-eight low profit margin department stores throughout California. Some of these stores are membership department stores; some are not. I have been associated with these or similar stores since 1957 and am very familiar with their manner of operation.

To the best of my knowledge each of these stores leases space to an optometrist. It is the uniform policy of these stores to act only as lessors with respect to these

optometrists. Said lessors exercise no control whatsoever over the method of practice of the optometrist. The lessee-optometrists are free to establish their own fee schedule. The leased space is set up and equipped under the direction of the optometrist. Each landlord is aware that optometrists are subject to regulatory provisions of law applicable to optometrists and has agreed to comply with all applicable regulations. The stores do not advertise on behalf of the optometrist. The practice of the lessee- optometrist is a completely independent one, and the stores for which I speak remain willing to comply with all reasonable regulations governing optometrists. Said stores do not classify or call themselves discount department stores, and the word "discount" rarely appears in their advertising. They maintain a consistent policy of low gross profit markups and make this policy known so as to attract business, but their position is that they are merely low margin retailers. They do not give discounts on their regular prices or from the prices of other stores, but merely set their standard prices on a low mark-up basis.

These stores are modern, clean, and well equipped. They are reputable and widely accepted by the public. They have made every effort to comply with all applicable laws and regulations. They offer a service to the public of convenient one stop shopping and greater values, which the

public appreciates and enjoys. There is no reason why these stores should be discriminated against by denying them the right to lease space to licensed, competent optometrists, as a matter of fair play. Legally, such discrimination is, in my opinion, unconstitutional.

(In Senator Thompson's absence, Senator Sturgeon assumed the Chair.)

ACTING CHAIRMAN STURGEON: Questions, Senator Slattery?

SENATOR SLATTERY: Yes. Mr. Burns, in these arrangements, lease arrangements that you make with the optometrists, is it ordinary practice, and usual practice, to make this lease arrangement with the optometrist who is going to operate the department or the optometrist's office in your store, or is it more likely to be the practice to make a lease arrangement with some other person, probably an optometrist who in turn will hire several employees who are optometrists, to work in various stores? I mean is their operation a chain store operation with regards to the lease that they make with you?

THE WITNESS: Well, first of all, Senator, I'm an attorney for the trade association and not the stores, so it's a misnomer to say "you", but with respect to your question, now, just so I make that point clear, it's my understanding that the lease is made with the optometrist

and not with the -- a chain of optometrists. Now, it may be that one optometrist has more than one location, but in every instance in California to my knowledge the lease is made with a licensed practicing optometrist.

SENATOR SLATTERY: Who is going to operate this particular office?

THE WITNESS: Well, he may operate this office and others. In other words, he is responsible for the operation of office A, and he may also have offices B, C, D and E, where he has employees operating.

SENATOR SLATTERY: All right, now, my question, Mr. Burns, is what was the usual practice, and I'm not interested in what he may do or what he can do; I would like to know what he generally does.

THE WITNESS: As far as I know, the general practice is a single operator in a single store, but that is the extent of my knowledge.

SENATOR SLATTERY: Thank you.

ACTING CHAIRMAN STURGEON: Questions from staff?

MISS BRADFIELD: No.

MR. PEDIGO: No.

ACTING CHAIRMAN STURGEON: Thank you very much, Mr. Burns.

THE WITNESS: Thank you, gentlemen.

(Witness excused)

ACTING CHAIRMAN STURGEON: Dr. George Deane, Jr.,

would you identify yourself for the record, please, and when you may proceed any way you care to.

GEORGE I. DEANE, JR.,

called as a witness by the Committee, was examined and testified as follows:

THE WITNESS: Mr. Chairman, members of the committee, my name is Dr. George I. Deane, Jr. I am legislative committee chairman of the California Optometric Association. Before I continue with the testimony where we left off at the last hearing, I would like to introduce and ask to say a word or two, Dr. Charles E. Seger, Vice President of the American Optometric Association.

(Witness temporarily excused.)

CHARLES E. SEGER,

called as a witness by the Committee, was examined and testified as follows:

THE WITNESS: I am Dr. Charles E. Seger, Vice President of the American Optometric Association. I want to thank the Chairman of the commiteee for the opportunity of saying just a few words, one statement in fact, and that is this: The American Optometric Association wholeheartedly concurs in the purposes of this type of legislation for the benefit of the public.

ACTING CHAIRMAN STURGEON: Thank you, doctor.

(Chairman Thompson assumed the Chair.)

GEORGE I. DEANE, JR.

a witness called by the Committee, resumed the stand and testified further as follows:

THE WITNESS: At the first hearing, testimony was presented covering four points:

One, the proposed legislation is constitutional;

Two, it is needed to close a loophole in the statute prohibiting the offering of discounts or representation of lesser fees;

Three, it is needed to maintain the quality of visual care, and

Four, it is in line with corrective action taken by other states.

I will not belabor those points. I think we went into quite detail at the last hearing. At that time we presented witnesses to describe the practices within three different discount houses. They described basically the representation of discounts or lesser fees, the impressions that the public had upon entering and also various practices regarding what we consider sub-standard practices in the health care of the public. At this first hearing, reference was made by the opponents of this proposal to the subject of standards for ophthalmic materials. They claimed erroneously that we had presented evidence to the subject of the 1961 Legislature. Also they claimed

that there were no standards for ophthalmic materials. At this time I would like to present to the committee a report on a number of samples of the quality of materials obtained from the discount house concessions. The evaluation was made by the School of Optometry of Ohio State University. Not one of the lenses received met recognized standards, and there are recognized standards contrary to the statement made at the last meeting. Namely, the American Standards Association Z-80.3 standards for ophthalmic materials and also the standards of the Department of Social Welfare public assistance medical care program. Again as I state, these samples obtained did not meet requirements of either one of those established standards..

At this time I would like to present that to the committee for its records, the Z-80.3 standards and the results of the survey.

Statements were also made by the opponents that implied that their mercantile locations resulted in reduced overhead for the practitioner. If the committee should be interested in looking further into that matter, we would welcome such a study, and are confident that the reverse is actually true. That is, the overhead expenses, that combination of rent, utilities, phone, janitorial services, et cetera, are much higher for the mercantile

concessions in contrast to the professional practices. I would also like to enter this statement for the record, that in as much as the subject matter under consideration at this time rather than the specific wording of a given bill, we feel that it would be most desirable to draft legislation that would be clear-cut, easy to interpret, and causes no problems as to enforcement. Although the Oklahoma statute prohibiting practice in any mercantile establishment is broader than the original legislative proposal of Senate Bill 1062, it does meet the aforementioned qualifications. It has been held constitutional by the highest court of the land, and it would certainly not meet with any objection from the professional organizations actually representing optometry and dispensing opticianry within this state.

As I stated earlier, the witnesses we called at the last hearing dealt primarily with the representation to the public and the feeling of the public and also certain aspects of the way the practices were conducted. This morning I would like to present, at the pleasure of the committee, one or two witnesses to describe to the committee how there is an interference between the policies of the practice and the management of the so-called discount stores. In other words, it's not under their complete control, and at this time I would like to call

Dr. Michael Hollinger to speak, with your permission.

CHAIRMAN THOMPSON: Doctor, first of all, we should accept this as Exhibit Number One for this part of the hearing, and I will leave it with our secretary.

THE WITNESS: Dr. Hollinger?

(Witness temporarily excused.)

MICHAEL HOLLINGER,

called as a witness by the Committee, was examined and testified as follows:

THE WITNESS: I am Dr. Michael Hollinger, optometrist, at 329 West Fifth Street, Los Angeles. Members of the committee, Mr. Chairman, I have practiced optometry since 1940 in the State of California. A partner and myself were located in a discount house in L.A., to be exact in Van Nuys, from December, 1960, to May, 1961. One of the main reasons why we left in May of 1961, we were called in by the management of this particular discount house for a meeting. They were complaining that our particular operation did not show any particular volume in relation to the rest of the operations. And then a man who happens to be the business consultant or the business manager of the entire enterprise of a department store who had recently acquired control of this particular chain of discount houses, took a pair of glasses and threw them on the table and says, "How come? I got these glasses in

New York for nine ninety-five, and you're charging the price that you're charging." Well, my partner and myself tried to explain to the gentleman that we were using better merchandise and better lenses, and our overhead was higher, so he said, "Bunk." He said, "We're interested in getting a good volume out of your concession, and if you can't meet the price of competition, we shall get somebody who can." And we felt that the operation in itself was being controlled not by us, but there was an attempt made to fix policy by management instead of by the individual man who ran the particular optometric department in the discount store.

After discussing it with my partner, we decided that we'd better get out of this particular place because we felt that there was interference in our professional conduct of our practice, and to meet that kind of price policy would be complete prostitution of the profession itself.

One more instance where I feel that a discount operation is detrimental, prior to moving into the discount house and taking possession of our concession, we had to submit a price list which was checked against various prices of different discount operations in various parts of the state and the city to see if our operation was competitive, and we had to be competitive, and any time a

patient would say that he got the glasses cheaper someplace else, or anything like that, it was called to our attention that we were not competitive enough and therefore we ought to lower our fees. We had only quite a limited space where we operated, as a matter of fact, our particular space was only just about two hundred square feet which was allotted to us in a section of the discount store. In addition to everything else I have mentioned, I feel that in a small space of this particular nature, you cannot operate justly for the benefit of your patients. I personally feel that a discount house operation implies upon the patient or the patient implies from an optometrist in a discount house, that he will receive a discount in his optical services just like he did if he bought a Frigidaire or if he bought a hi-fi or if he bought some other form of merchandise, and taking these factors into consideration, I feel that optometry does not belong in discount houses.

Thank you.

CHAIRMAN THOMPSON: Doctor, of course the price, whether it's nine ninety-five or fifty-nine ninety-five, I don't believe the committee or the law would be interested in. In fact, it's possible for people of limited circumstances to obtain satisfactory glasses that are reasonably priced, perhaps that's good for everyone. What the committee

are interested in is whether the glasses, whether the fitting, the service, is of benefit to public health, to the eyes, to the vision of the patients who do come to any optometrist, and whether or not if they go for treatment for an eye test in a discount house, whether it's satisfactory, whether they're going to receive as satisfactory service as they will somewhere else. That is what the committee are interested in. Do you believe they do? For instance, we have heard testimony that they do not have a place where you can wash your hands and so on after treating one patient, where it's open, and there is all of the noise from a large establishment, make it difficult to hear as well. I believe those are the things, and the other gentlemen who are going to testify, if they would bear more on that because as far as the price is concerned, we couldn't care less. Do you want to touch on that a little more?

THE WITNESS: Yes, I will just elaborate. I mean there is a limit, in other words the quality of your services will diminish if you go below a certain let's say fair return on the services or on the merchandise that you have to get in order to meet your overhead, and I feel in many cases the optometric operation in a discount house where the price is extremely low, is more or less a come-on for the rest of the store, for the rest of the enterprise,

just like somebody selling cigarettes at cost in order to get people into the store. I feel that this particular point, that the optometric department would in many cases become a leader to get people into the discount house, to increase the traffic into the discount house. As far as services are concerned, if you lower the price of your services and merchandise which are associated with it, like glasses and frames, below a certain point, you either have to prostitute service or quality.

CHAIRMAN THOMPSON: Then I might ask this question: In the discount houses that you have had experience with, did you give the same length of time to patients in their examinations?

THE WITNESS: Sometimes yes and sometimes no, depending upon the pressure. In other words, depending upon the number of people who are waiting to be examined, you have to sometimes cut your time down in order to take care of as many people as you can, because most people don't wait too long. They want to be taken care of immediately, and naturally you might have to cut corners in order to take care of as many people as you possibly can.

CHAIRMAN THOMPSON: In your opinion did you give them as good a service as you would with your own office, a regular optometrist office, as an associate or whatever it might be?

THE WITNESS: That's a difficult question to answer because it depends on how satisfied the patient would be, but I would say I probably spend more time with my patient in my own office than I would in a place of this particular nature.

CHAIRMAN THOMPSON: Senator Slattery?

SENATOR SLATTERY: Yes. You said that in cases where you had the office full of people that you had to cut down the time of the examination. You're referring now to when you had your office in a discount house?

THE WITNESS: Yes, sir.

SENATOR SLATTERY: What is your practice in your office, your private office when your outer office is filled with patients? Do you have to cut down the time of your examination there?

THE WITNESS: Up to a certain degree. I mean I allot a certain amount of time, a minimum time, but I would say in a discount house I had to cut the minimum. There is a minimum of time that one has to spend with a patient to get the prescription and its ramifications and to satisfy the patient's needs for history and different aspects of an examination, and in a discount operation, that minimum time had to be cut even more.

SENATOR SLATTERY: What would you say would be an average time for an examination?

THE WITNESS: I would say the complete examination would be about a half hour.

SENATOR SLATTERY: Half an hour, all right. That's all.

THE WITNESS: Thank you, sir.

CHAIRMAN THOMPSON: Thank you, doctor.

(Witness excused)

GEORGE I. DEANE, JR.,

called as a witness by the Committee, resumed the stand and testified further as follows:

THE WITNESS: If I might add this, even though I have not had the personal experience within a discount house myself, I hope never will, the feeling I think the difference between the private practice and the one located under such circumstances is they do not need to depend on, quote, impulse buying. In other words, in your private practice when a patient has come to you, and is in your office, he has decided, he knows he wants visual care. He needs visual care. If he can be taken care of at that time, fine. If it's necessary that as you state, "Well, I am busy with my patients. There will be a wait, or it will be necessary to redate you to another day." They have already decided to have a visual care. In a merchandising atmosphere they rely upon the fact that the person hasn't considered. He didn't go into the place for visual care or any thought of it, but the impulse of it, you must get them

now or you lose it. That is one of the points as far as having to rush them through if we have them waiting.

CHAIRMAN THOMPSON: Well, doctor, in your private practice, people call in and make appointments?

THE WITNESS: Yes.

CHAIRMAN THOMPSON: Is that it?

THE WITNESS: Yes, in my own private practice, ninety-nine per cent actually call in and make appointments.

CHAIRMAN THOMPSON: Is that the procedure in a discount house?

THE WITNESS: I do not believe that there are very many that are actually made by appointments. You might ask the witnesses that.

CHAIRMAN THOMPSON: I believe you have three more.

THE WITNESS: Yes, we have.

CHAIRMAN THOMPSON: They might dwell on that just a little bit.

THE WITNESS: All right. The next witness I would like to call is Dr. Samuel Margolis.

(Witness temporarily excused.)

SAMUEL MARGOLIS,

a witness called by the Committee, was examined and testified as follows:

THE WITNESS: Mr. Chairman, members of the

committee, my name is Dr. Samuel Margolis. My address is 8400 Capistrano Avenue, Canoga Park, and I am a graduate of Los Angeles College of Optometry, class of 1960. The first item that I want to bring out is the experiences I had in a discount house which I leased. The lease had a thirty day clause which would allow the lessor to ask me to leave in that length of time. We opened the office, and everything went pretty well for that first month. There were no complaints of any nature from anyone. The office as the discount house volume thinned out also became quite a bit less. The lease I had was on a percentage basis strictly, if my memory serves me right, a twenty per cent and then going up to a thirty per cent of the gross, and after, as I say, the first month, the gross became a little bit less, and I start to receive telephone calls about the various things I could do, which included use two or three pair of glasses for each patient. I am not doing enough. My daily reports show I should be doing better, that I'm using too many lower priced frames, and that I'm not giving enough trifocals instead of bifocals, and I particularly got a lecture concerning the fact that many females would be shocked at the idea of having to go to bifocals and should have blended lenses which are much more expensive. This type of instruction was given to me over the phone. I figured three phone calls was enough,

and I soon left that office. I simply didn't agree with the idea of making a living by prescribing purely for economic gain, for myself and certainly not for anybody else.

The second experience was kind of the other side of the coin. I left that operation and looking about for something to do to earn a living I went to work for another man in another operation. The one who operated the office was not there. In fact, he was overseas. The office had his name and provided a very good service; the fee was marvellous. I'm sure the office hadn't made a profit for three years which suited the management.

CHAIRMAN THOMPSON: Had not made a profit?

THE WITNESS: I'm almost certain it had not made a profit for two to three years, which suited the management, and allowed them to I feel use the professional service as a shining badge of low price, and my instructions were not to get any complaints, and the man who I replaced had gotten too many complaints, this put me in a pretty awkward situation which I did not like because very often when you prescribe a correction that's needed, it's not comfortable, very uncomfortable, and it takes a little while before this shock, this change, becomes normal and natural and comfortable, and during that time if you're a normal person you might tend to complain particularly if

the price is so low that it's a little bit suspicious anyway, and for that reason I felt I could not prescribe in many cases complex prescriptions which were really needed but which might engender complaints. Two other factors in that particular situation which I disliked were the fact that my practice of optometry was I felt very much limited. There was no provision for fitting contact lenses and the reason being contact lenses require time, it required patience, it required an awful lot that could not be supplied in that atmosphere, and also there was no facilities for practicing of visual training exercises. Again, it required time, it required concentration on the part of the doctor, and this operation was not geared to that. It was in my opinion strictly an example of what you get if you shop at this particular installation.

That about sums up my feelings and my experience. Thank you.

CHAIRMAN THOMPSON: Questions?

SENATOR STURGEON: Yes. Testimony at Al Tahoe and again this morning would indicate that there probably is quite a large turnover so far as optometrists in the discount houses. Is this your opinion that this is true? Doctors don't stay there too long?

THE WITNESS: It's been my experience that this is true.

SENATOR STURGEON: Well, the second question, I can readily understand why the discount house would want the optometrists in their establishment, but it's not quite as clear to me why the optometrist wants to be there.

THE WITNESS: Well, my wife and children would probably be more qualified to answer that than I would. I graduated from school in 1960, and the only position I could get was to leave town and go to San Diego or leave town and go down to somewhere between here and San Francisco, and those were my two opportunities I had to gain employment, and after five years of going to school, you don't kind of quibble. I mean if you're offered employment and those are the two, after contacting many, many of the ophthalmic people who sell and distribute and trying to find out who they've seen that needs help and you're only given two choices, and they both are the same, you do what you have to do. I certainly did not go to school for five years to practice in the manner that I was forced to, and I presently am not practicing in that environment, and I hope I never am forced to go back into it.

SENATOR STURGEON: Just one other question, and this really has no bearing on this except curiosity: You said Los Angeles College of Optometry is a five year school?

THE WITNESS: It is three years of optometry training and two years of requirements leading to the

requirements to get into the school.

SENATOR STURGEON: This would be qualified as a liberal arts school, would it?

THE WITNESS: I just don't think I would be qualified to answer that. They give a degree of Doctorate of Optometry.

SENATOR STURGEON: This has nothing to do with it, just curiosity. Thank you.

CHAIRMAN THOMPSON: Doctor, you say three years of optometry and two years of preparatory?

THE WITNESS: Right.

CHAIRMAN THOMPSON: That would be five years after high school?

THE WITNESS: Right.

CHAIRMAN THOMPSON: Questions from the staff? Thank you, doctor.

(Witness excused)

DR. DEANE: Our witness didn't cover the subject of appointments. I wondered if you wanted to ask.

CHAIRMAN THOMPSON: We'll probably get that from the next one.

DR. DEANE: All right. Our next witness will be Dr. Jerome Teller, and we'll certainly have him cover that point of appointments.

JEROME TELLER,

called as a witness by the Committee, was examined and

testified as follows:

THE WITNESS: Mr. Chairman, members of the committee, my name is Dr. Jerome Teller, 8500 Bothwell Road, Northridge, California, graduate of University of California at Berkeley, graduated in 1958, past the State Board in 1958, and have been practicing in Los Angeles since then. Presently I'm employed by two ophthalmologists, and my experience with the discount house is a brief one. I worked for them approximately three and a half years ago, and at that time to cover your question immediately, in the period of time that I was at the discount house, I never had an appointment. Every patient that I examined was a patient that had come into the store and dropped in. The problem that I have felt with the discount house was basically the representation that we were giving a service at a much less rate than they could get any place else, and the physical facilities of the office to my belief were not in the best interests of practicing in the best manner. The external noise of the store, the physical plant, in fact the roof of the place was paper. The store was right at the entrance-way, and I was instructed in the beginning, and my first day at work, how to hand out wipers to wipe your glasses, and to give a sales pitch at the same time. In other words, at the time you hand out the wipers to the people coming in the front door, you hand out the wiper and

you hold on to it, and you gave them a sales pitch telling them that you can get glasses here at such and such a fee, and this was the way the operation ran. As I say, the physical plant was lacking as far as not in specific facilities, but in the possibility if I wanted to do further tests, some of the equipment was not there. The time established to do a particular examination was not specified, but since it was on a non-appointment type basis, the influx of patients at one time was not a smooth type of thing where you'd run on an appointment type basis. In other words, if you got a large group at a time, you had to rush through as fast as you can, because these people would not wait, and it was impressed on me that when you had patients there you had to get through with the patients and get on with it, in opposition to the fact if you have an appointment type deal you can schedule your time accordingly. That would be my statement, sir.

CHAIRMAN THOMPSON: Questions, Senator Sturgeon?

SENATOR STURGEON: Both at Al Tahoe and here we have heard considerable testimony about the difference in the fees that are actually charged, but I don't recall any specifics. Could you make us some kind of comparison?

THE WITNESS: Comparative fees, sir?

SENATOR STURGEON: Yes.

THE WITNESS: To what would be charged in a

private establishment as a comparison?

SENATOR STURGEON: Yes.

THE WITNESS: I can quote the fee established at the discount house of nineteen ninety-five. You'd have to ask the people that are in private practice what the fees are.

SENATOR STURGEON: Well, I think different prescriptions require different prices, though, don't they?

THE WITNESS: Well, yes. The fee was for single vision glasses, in other words non-bifocals, just one vision was nineteen ninety-five. Bifocal glasses was twenty-nine ninety-five. This was the fee quoted. Naturally this was on the majority of prescriptions. If they wanted a better frame, then we had a more or less select line of frames which were brought out which increased the fee.

SENATOR STURGEON: You are in private practice now, aren't you?

THE WITNESS: No, I'm associated with two ophthalmologists.

SENATOR STURGEON: But would you care to give the different fee arrangements?

THE WITNESS: We do not dispense any glasses.

SENATOR STURGEON: Oh, I see.

THE WITNESS: At the establishment I'm working at.

So therefore I can't give you an offhand figure.

SENATOR STURGEON: Thank you.

CHAIRMAN THOMPSON: Doctor, it has been mentioned through all of this hearing, and the bill has applied to the so-called discount houses. Now, could you make a comparison between a discount house and say a department store or drug store that has part of their services to have an optometrist? Now, I think that is something that's widely engaged in. Now, do you find the so-called discount houses render a lower grade professional service than the regular old line department store?

THE WITNESS: Well, I feel first of all that the physical plant of the discount houses is in the majority of the cases far inferior to the physical plant in a mercantile establishment although some of the same problems exist as far as external noise and people milling in and about do occur in some mercantile establishments, but the physical plant is generally in my estimation far superior. They usually set up with walls and set in a corner and set apart from the mercantile establishment while most of the discount houses are right on the entrance-way, traffic area, to attract as many passer-bys as possible.

CHAIRMAN THOMPSON: Well, do the optometrists have somewhat of a code of ethics the same as many other professions?

THE WITNESS: Definitely.

CHAIRMAN THOMPSON: And do you believe a discount house, as the testimony has been, that the conditions are not so good, that it's rather difficult to live up to that so-called code of ethics?

THE WITNESS: In many cases it's quite impossible, I believe. In other words, if you have a patient where further study is required or you feel that further study, say a visual field test, or some other type of testing, is required which takes more time, where you can allot the time in a private practice, in many cases you have no judgment of time because it's strictly an impulse buying, drop in, and take them when you can get them.

CHAIRMAN THOMPSON: Another question, for the most part, are the optometrists in discount houses young men just graduated from school?

THE WITNESS: I feel that the owners of the discount houses, the people that have the master leases, are mostly not the new men but they have the master lease and the people that are actually doing the work are the young men because the hours are not usually conducive to good family relations since it's being nights and seven days a week and working Sundays, that it's the young man who is looking for a living before they can find a location or before they can find a position to go into to practice

the way they have been taught to practice, but this is an interim period where they want to make a living and have to accept this to gain experience in one respect and also gain time to establish their practice on professional basis.

CHAIRMAN THOMPSON: And that would not be true in the regular old line mercantile establishment?

THE WITNESS: Well, I am not too familiar with the mercantile establishments except that I know that most of the mercantile establishments do manage to keep their men longer and it's a business where it's a business hours, daily hours, where it doesn't require the night times. It doesn't have the same fallacies, they're closed Sundays, and it's a different setup.

CHAIRMAN THOMPSON: And with them it would be the practice to set up appointments and so on, more or less the same as in private practice in an office?

THE WITNESS: I couldn't say, sir. I'm sorry, I really couldn't say.

CHAIRMAN THOMPSON: I see. Questions?

SENATOR SLATTERY: Yes. Dr. Teller, you're not any relation to the nuclear scientist, are you?

THE WITNESS: It's possible. We go to the same school.

SENATOR SLATTERY: I went to the same school, too,

and there is some difference in our background. But would you tell me something about the course at the University of California at Berkeley, being a fellow alumnus of that organization, of that school, I'd like to know what their course in optometry is like. I mean you take two years of what you call pre-optometry?

THE WITNESS: Yes, the course, they have a pre-optometry curriculum requiring two years and one summer session. In other words, it's just a little bit beyond the average two years, and the course in optometry itself is a three year course. After completing two years of optometry school, you receive your Bachelor's Degree, and after completing one year or the fifth year which is your year of graduate work, you receive your degree in optometry. I might say, though, that I myself spent eight years floating around in many fields, but it's very rare that a student goes to optometry school after two years. It's mostly more so three years, and then three years of optometry school. The two year pre-optometry is basically on a par with the pre-medical curriculum except for a few courses which go into anatomy and things like that, but the basic two year prerequisite is similar to the pre-medical requirements, and then you go into optometry school for three years.

SENATOR SLATTERY: How many units does it take to

finish? One year in optometry, what is usually considered?

THE WITNESS: One year in optometry, it's fifteen units a year approximately. In other words, I think the first year is fourteen, the first semester, is fourteen or fifteen units a semester, but thirty units a year.

SENATOR SLATTERY: Is this pre-optometry you're speaking of or in optometry?

THE WITNESS: No, in optometry school, and after two years in optometry school, you have to qualify for your Bachelor's Degree from the University. Yes, that's correct. Two years in optometry school qualifies you for a Bachelor's Degree.

SENATOR SLATTERY: Now, I'd like to ask you about when you were working in a discount house. About how much time were you allowed or did you have time to allot to an examination?

THE WITNESS: The first few days which was the first opening of the discount house, which was crowded, we did it as fast as we could. After the first three days, I had as much time as I wanted to because the business wasn't there. The discount house did not do well.

SENATOR SLATTERY: And you sold a general, you might say a utility pair of glasses for nineteen ninety-five?

THE WITNESS: Well, let's put it this way: I'd say, sir, that a majority of the cases or percentage of the

cases can be done in a cursory manner while a certain percentage of cases that necessitate further study, if they didn't come back, or we didn't see them, I don't know where they went from there. I was only there one month.

SENATOR SLATTERY: Oh, I see, your experience was rather limited then?

THE WITNESS: That's right.

SENATOR SLATTERY: But this pair of glasses, I mean you gave them the examination and you prescribed the glasses and you sold them the glasses. Was this a satisfactory pair of glasses that they got?

THE WITNESS: In the majority of the cases it was satisfactory as far as giving adequate vision.

SENATOR SLATTERY: Well, I mean after all what do you sell them for?

THE WITNESS: Well, as far as satisfactory, I feel that I tried to do the best job that I can, and I feel I did a satisfactory job.

SENATOR SLATTERY: That's the point that I'm making. You feel these people got their money's worth?

THE WITNESS: A satisfactory job, yes.

SENATOR SLATTERY: Thank you.

CHAIRMAN THOMPSON: Doctor, what percentage of the applicants of the school, U. C. School of Optometry,

are accepted? How many of the students qualify for the five year course in optometry?

THE WITNESS: You mean how many are in a class?

CHAIRMAN THOMPSON: No, percentage-wise.

THE WITNESS: I wouldn't be able to say, sir.

CHAIRMAN THOMPSON: I don't think it's germane, but I know that different young men and young women who have tried to get in there, but could not.

THE WITNESS: Well, they have to meet the requirements of the university itself primarily, and if they didn't meet the requirements of the University of California, then they would not meet the requirements of the School of Optometry.

CHAIRMAN THOMPSON: Well then, I'll rephrase the question. You have a two year preparatory course?

THE WITNESS: Yes, sir.

CHAIRMAN THOMPSON: Of those that have passed the two year preparatory course, how many are admitted to the School of Optometry?

THE WITNESS: If they passed all the preparations with adequate grades, I imagine they would all get in.

CHAIRMAN THOMPSON: I see. There is adequate room for everybody?

THE WITNESS: Oh, yes.

CHAIRMAN THOMPSON: I see.

SENATOR SLATTERY: Mr. Chairman?

CHAIRMAN THOMPSON: Yes.

SENATOR SLATTERY: Are you through?

CHAIRMAN THOMPSON: That's right.

SENATOR SLATTERY: I have another question. I would like to ask you, Dr. Teller, in your experience that you have in the University of California, when you were attending there, about what would be the mortality rate in the three years of the Optometry School?

THE WITNESS: Well, I can give you my own experience. We started with a class of approximately thirty-eight, and about twenty-four graduated.

SENATOR SLATTERY: About a third you lost along the way?

THE WITNESS: Yes, sir.

SENATOR SLATTERY: Thank you.

(Witness excused)

GEORGE I. DEANE, JR.,

called as a witness by the Committee, resumed the stand and testified further as follows: .

THE WITNESS: I would like to perhaps assist if I might in helping to clarify one thing. When we talk about satisfying the patient, in other words how much time we spend, you can satisfy as far as in the patient's own mind, let's say just meeting the principal symptoms, or practice a minimum of optometry, and you can probably

satisfy or the patient thinks he's satisfied in the majority of the cases. So you can do a minimum of time and probably if you spent I would say you might be able to examine a number of people in fifteen minutes or ten or fifteen minutes and probably a number of them would as Dr. Teller mentioned arrive at a prescription which gave them satisfactory visual acuity. I believe that is what he was referring to. The more complex cases, the ones that perhaps should be referred for medical care, those that are not obvious on the surface, these cases are not detected during that first ten minutes. It takes a more extensive care to rule out which one needs more care, which one doesn't. So you're gambling in a sense. You cut it short, sure the majority will be satisfied. You never really know how many of them, though, had conditions which should receive more attention or further attention that did not. There are other cases that you spend this additional time, perhaps the half hour additional you spend does not elicit any information which necessitates further treatment on your part or lens prescription or referral to other practitioners. In other words, it's a calculated risk if you don't fully analyze the case.

Another point I would like to make regarding we've talked about fees, and discounts, and price offers that are being less, we have not made a great point of this

because we felt this was quite well established and argued at the time that prohibitions against price advertising were enacted in the interests of public health, in the time that the prohibition against the offering of discounts or representations of less was enacted into law, and the various court decisions which uphold that in the public interest to keep the whole profession from deteriorating and ultimately the public being the one who would suffer. I would without dwelling too much longer make a few quotes of an interesting volume which I unfortunately didn't obtain until just yesterday. It's called "The Discount Store Manual" prepared by the National Research Bureau, Incorporated, and a few quotes out of there. This is the book on how to go about good discounting, and it's a very interesting volume.

"The true concept of discount merchandising, selling at lower than traditional markups in every department on every business day, was established and developed by such pioneers" et cetera. So that's the true concept, not the spot deal, the pseudo discounters. Now the basic concept of genuine discounting is at low margin retailing as our witnesses have already stated. Now, this low markup is possible because of one, self service in many departments. In other words, in this case, self service in health care. Two, rapid turnover -- points we brought out.

This is the basis of it, rapid turnover, again in the patient's welfare. And three, a high sales volume per square foot.

We talk about display policies. This display policy creates impulse sales on a scale never imagined by traditional stores. There is a trend, however, in the legitimate -- which we refer to as the regular department store, and I quote this, however look for an increasing number of old department stores to turn to discounting on a store-wide basis. This has already happened in at least one market, probably in others. The one regarding the policy as far as who controls the concession, in other words, is this completely under the control of the optometrist, and there is a recommended policies. Lease contract should establish final authority in all important decisions. Some discount stores reserve the right when competition is found to be offering items at lower prices to demand price reductions. Unless this authority is fully understood by the lease department manager, conflict is almost certain to follow when price reductions are demanded. Another item to be included in contracts is the lease department's responsibility to contribute a fair share of leaders for special promotional events, and here we are, this is their manual, and I believe goes along with the contentions we have made.

This is the extent of our formal presentation. We would be happy to answer any specific questions anyone might have.

CHAIRMAN THOMPSON: Doctor, perhaps you could answer this: Could lycoma be detected from a discount house examination?

THE WITNESS: This of course makes us define a routine discount house examination. Lycoma in its advanced stages, very advanced stages, can be detected with the hand instrument called the ophthalmoscope where we see a marked change in the appearance of the fundus. As I see this is usually quite well advanced. The person has suffered quite a loss due to disease.

Next we come to the subject of what tests are there in the optometric procedure that could detect it earlier? There are one, the more common visual field studies which are as a screening procedure to determine whether they should be referred to an ophthalmologist for further workup, are fairly reliable, and this can be done. I believe it is safe to say that it is probably a rarity to see a discount house set up with vision field screening equipment.

The other method is by tonometry. Recently in optometry we have the advantage of the electronic tonometer, and in this regard we can now do tonometry without

anesthesia, and this can be done. I would venture to say there is not one such practice that has tonometry.

CHAIRMAN THOMPSON: I'll ask another question. It was brought out at our previous meeting that in some of the discount houses sanitary provisions were not good, and the doctor would not be able to wash his hands when he finished and so on. Would that tend to spread other diseases besides lycoma?

THE WITNESS: Other --?

CHAIRMAN THOMPSON: Other diseases?

THE WITNESS: Other than what? I'm sorry. I didn't -- it wouldn't be lycoma that would be that way.

CHAIRMAN THOMPSON: No.

THE WITNESS: But yes there are a number of conditions that could be spread by unsanitary conditions. Probably the most common would be your external eye conditions, conjunctivitises, keratitises, blepharitises, and there is any number of them, the basic problem being the bacterial infection that can be introduced. I mean any that can be introduced in that fashion externally.

CHAIRMAN THOMPSON: Are the basic objections to optometrists practicing in discount houses based upon the conditions under which they must work and the time that they are cut to?

THE WITNESS: It would be hard to say one single

factor. We have a combination. It isn't just the physical facilities because undoubtedly there are discount houses that have better physical facilities. The impulse buying would be one thing.

CHAIRMAN THOMPSON: The which?

THE WITNESS: What we call impulse buying, in other words just to catch them on the run and therefore the lack of adequate time would be another. The basic evil of the price offer competitions in the field which has been already discussed is this whole package. As far as one thing, on the sanitary facilities, which were discussed at more length at the last hearing, of course we found out a lot of things in this investigation ourselves. We have asked for legislative counsel opinion on whether the Board of Optometry at the present time has the authority to adopt rules on that subject, and the opinion is very short one: "We believe the Board has that power so long as the particular regulations relate to the practice of optometry." I would like to present this to the committee. That will be right on the subject.

CHAIRMAN THOMPSON: We can make that part of the record.

THE WITNESS: Fine.

CHAIRMAN THOMPSON: If there is no objection from the members of the committee.

One other question: You folks mentioned impulse buying.

THE WITNESS: Yes.

CHAIRMAN THOMPSON: Now, is it possible that a great many of these people that do drop in, do get their eyes examined and do get glasses, if it wasn't brought to their attention would never get them and might suffer?

THE WITNESS: This is a point. We continually state through public relations that you should have a routine eye examination. We know that the average person does not have one as frequently as he should, and so this is true that anything that tends to promote this fact, that there are people that have their eyes examined more often is good and in the public's interest, so I will agree with you there.

CHAIRMAN THOMPSON: Well, you don't have to agree with me, you just answer the question.

THE WITNESS: Well, I mean it would be. But the concept or the very environment that makes it almost mandatory for such an impulse, that if you don't satisfy that impulse right now they won't have it tomorrow, and you'll lose it, and therefore its various evils that go along with attempting to take care of it at that moment is the problem -- not the impulse itself to have it done is not, but the fact that so many of them feel they

can't carry it forth at that time and they'll lose it and therefore corners are cut.

CHAIRMAN THOMPSON: Doctor, how extensive are eye examinations at schools?

THE WITNESS: I'll have to ask at schools, public schools?

CHAIRMAN THOMPSON: Let's say public elementary schools.

THE WITNESS: Unfortunately, they are not extensive whatsoever. The so-called vision screening that is done in the public schools which by State law there must be a test done by the third grade. There are seven or eight counties which do have quite a good program. It's called the modified clinical technique developed at the University of California where the work is actually done by optometrists in as I said, seven or eight counties, where they do rather an extensive screening. Again it's not a complete examination. It's for the purpose of determining is further attention advisable? However, in the majority of cases the only test that is done is the Snellen chart which is quite good at picking up near-sightedness, but that's about it except for high errors of astigmatism and amblyopia, but as far as the number of these others as far as coordination between the two eyes, as far as occular pathology, of course as far as the youngsters, there is fortunately not

too high a percentage. The test itself wouldn't detect that; it would be the teacher's observation or the nurse's observation, but as to the percentage detected of the school age population that are in need of professional care as defined in the study done at the University of California School of Optometry, in cooperation with the Department of Ophthalmology at Stanford, so we have them combined, I would say that probably the present procedures are detecting about forty per cent of those that should be referred for further attention. Now, what percentage do receive further attention is another question, but the test itself would be some indication if it were done often enough, but it's not done too often too because the situation can change quite rapidly. You could have a youngster in the third grade who would pass any test fine, and by the fifth grade he could very definitely have a problem.

CHAIRMAN THOMPSON: How often do you believe that a youngster say of elementary school age should have their eyes examined?

THE WITNESS: This is one that -- I would say it this way: As far as the youngster should be examined, pre-school, earlier if there is any indication as far as any signs that may be evident, but at the latest pre-school. If that pre-school examination let's say in my own practice and again this is individual judgment, I would recommend

probably two year recheck on it. Now, there are other cases maybe one year, but I say one to two years. There are periods when they change more rapidly than that, and that is the age of ten to twelve in girls and twelve to fourteen in boys, particularly in the development of near-sightedness, so again if you saw a youngster in rapid growth, you would recommend an earlier examination, and again later on the eyes become more stable between the periods of the twenty-five to thirty-five age group, again wouldn't have to be quite as frequent, and then later on we get other changes. There is no one flat answer. If you asked me to say a flat statement which would probably be an average, I would have to say two years, but I want to qualify it to not cover all things.

CHAIRMAN THOMPSON: It's not compulsory in the law at the present time, though, that every child have their eyes examined?

THE WITNESS: The law states that the schools shall conduct a vision screening which shall be adequate, and that that test shall be done no later than the third grade, so there is a law that says there shall be screening done at least once. There has been a little difficulty in defining the word adequate. That's one of the problems.

CHAIRMAN THOMPSON: Well, would you recommend that this be done by optometrists, an optician, or you know,

have that stricken and define as to who would do that?

THE WITNESS: You mean would I suggest that the school nurse not be permitted to?

CHAIRMAN THOMPSON: Yes.

THE WITNESS: No, sir, I wouldn't go that far. No. The school nurse serves a valuable purpose, and on certain aspects of it she does the best job she can. There are other things that she professionally cannot do, never will be able to do, but I certainly would not prohibit her from doing what she can do. Now, let's take the question of if every school child should have a complete examination. Let's say that you put that on an annual basis. This will give you the idea of how well the need is being met. There wouldn't be enough practitioners in the California, ophthalmologists and optometrists combined, to do it. This is checking them all, not the ones that have been referred for further test.

CHAIRMAN THOMPSON: Irrespective of the test that the school nurse uses to determine whether they need further care or not?

THE WITNESS: Who establishes what that test shall be?

CHAIRMAN THOMPSON: Yes.

THE WITNESS: The State Department of Education has a recommended procedure and this is in the process

right now of being revised. This actually comes from the State Department of Education through its advisory committee on public school health. That's the way it goes. It is subject to modification at the local level. It is generally recommended that the schools have an advisory committee made up of the representative of the health care professions and to tie it in with local community practice, and this is generally the way it's done. There have been a great deal of attempts to arrive at some tests that a school nurse could do which would greater meet the demands, but this hasn't been too fruitful so far. The actual new recommendations I believe are going to be that every child should have a complete examination by a professionally qualified person early in the school year or school years, and followed by that there should be a Snellen chart test done annually by the school nurse. That's what the new recommendation of the State Department of Education will be.

CHAIRMAN THOMPSON: There are enough optometrists and opticians to do that then?

THE WITNESS: There are enough to do screening. The Department of Education is not saying every child shall be examined every two years, the spacing of the concept is that once you get the child under care, then that will be left to the judgment of the practitioners and these

others that were not detected on the first examination which generally will rule out your coordination problems, will generally rule out your marked astigmatism, your marked eye growths, leaving principally the defect which will develop after that of myopia, and myopia can be detected quite well now with the Snellen chart. We could have quite an interesting discussion on that subject for several hours.

CHAIRMAN THOMPSON: Yes, I realize that, but I think it's an interesting subject.

THE WITNESS: Yes, it is. As far as fees, you asked about comparative fees, I could give you one that would have some significance. The State Department of Social Welfare fee schedule, which is supposedly representative of average private fees and a little less than that, allows for a refraction, fifteen dollars, allows for single vision lenses, ten dollars, extras if there is prism, and it allows ten dollars for a frame. It allows twenty dollars for a pair of bifocal lenses, and incidentally, all this must meet the standards which I referred to earlier as Department of Social Welfare standards. Those are the fees. In other words, the total of single vision, of thirty-five plus extras if they are needed as far as prism corrections and any number of different factors which additional fees are allowed for, but that would be your

State fee schedule, if that will assist in any way.

SENATOR STURGEON: Does that thirty-five compare with the nineteen ninety-five?

THE WITNESS: That would be a supposed comparison of what they are supposedly getting, yes. The thirty-five comparing to nineteen ninety-five, whatever it was.

CHAIRMAN THOMPSON: Senator Slattery?

SENATOR SLATTERY: Dr. Deane, am I correct in assuming that the optometrist actually does two things, one is that he tests the eyes, and the other is he supplies the corrective measures, the glasses?

THE WITNESS: In the vast majority of the cases the optometrist does what we call the complete service, the refraction and the dispensing of these ophthalmic materials, yes sir.

SENATOR SLATTERY: And also of course you can go the other route and have the eyes examined by an M.D.

THE WITNESS: Yes. This is an interesting trend there, a number of ophthalmologists are handling their own dispensing today. This is more true in Central California and Southern California than it is in Northern California, but this is a statement of fact. There are the more traditional, the examination being done by the ophthalmologist, the prescription for necessary ophthalmic materials being filled by the dispensing optician. That's

the team there.

SENATOR SLATTERY: Well, the doctor's prescription, the M.D.'s prescription could be brought in to any optometrist, is that not correct, and have the prescription filled?

THE WITNESS: It could be, yes sir.

SENATOR SLATTERY: Yes. Now, what I'm getting at, and this is I think would be interesting to know from some of your previous witnesses: Were there any cases of people bringing in a prescription from an M.D. and having them filled at a discount house?

THE WITNESS: I can state myself on one as far as I know the association happened to become involved in it with a matter of the State Board of Equalization, over sales and use tax, where I would say yes, they do have a number that are ophthalmological prescriptions which they fill, at least a far higher percentage than the average optometrist in private practice would fill, yes. So they do serve in that function, too, some of them.

SENATOR SLATTERY: Now, when one obtains a prescription from an M.D. and he pays the doctor for his services, and then he can take this prescription to any optometrist in the State of California and get it filled; it's his free choice, is it not? He is not under any obligation to the M.D. to go to a particular --

THE WITNESS: No, very often the ophthalmologist will have a dispensing optician where he has confidence and he may suggest a name of a dispensing optician, or several, but the patient is legally certainly free to go to any place with that prescription he might choose, that's right.

SENATOR SLATTERY: Thank you.

THE WITNESS: Yes. I would like to make one point on that: Of course as far as if you're implying well in this case they could do that but not the other because they weren't doing the examination, as far as just the mechanical operation, I would like to quote from our amicus curiae brief of the Attorney General, then Edmund Brown, in support of the lead optical case in the Oklahoma statute which we referred to:

> "The physical task of duplicating a lense without contacting the patient is one thing. The activity of adapting the lenses and frame to the eyes and face, to the wearer is an entirely different operation. The duplication of the lens is a mechanical shop operation. Yet adaptation of the lenses and the frames to the eye is an activity in the pursuit of a calling involving personal contact with the patient. Proper performance of the function requires

skill and judgment and additionally so because the prescription does not specify any particulars regarding the adaptation."

The general prescription does not include all the aspects of the finished glasses.

"The contact with the patient relates to a part of the human body, the eye, which from a utilitarian standpoint is commonly regarded as the most important of all. State legislation providing that only licensed persons with prescribed qualifications may engage in the calling of adapting lenses and frames to the eye is legislation in the public interest and that the public health and welfare is involved."

So that same point more or less was raised at that time.

CHAIRMAN THOMPSON: One other question, Dr. Deane. You go down the street here a few blocks and go in and buy glasses and fit them yourself, or they'll bring out various degrees, these are for forty year olds and these are for sixty year olds, and so on.

THE WITNESS: Yes.

CHAIRMAN THOMPSON: What is your opinion of that? They're used extensively by a good many people.

THE WITNESS: Yes, glazed goods. This is self

treatment, patient going in and -- can't call him a patient in this case. He isn't a patient of anyone, he's made the decision that he's going to try on glasses to see which one he sees the best with. This is one that is a problem not so much, at least in my opinion, in the actual damage that might be done by the wearing of the glasses themselves, but the problems of conditions which will go on undetected, very likely become worse, and then finally when they can no longer be helped with the glazed goods, they then seek professional care, and all of us in practice have gone through this experience of finding something that should have had care a number of years before. What will happen, some of these patients will have a condition that should have very definite care, very definite, perhaps medical, care, should be treated then or the results are devastating. They get some relief, you see, from the glasses. They do better. They don't know. Now, also there are those that will go in and they will wear them and they will get along just fine and never have any complications, so it doesn't damage all of them. It's some. We have taken the position basically that if and when we feel within this state that there are adequate means for caring for every person, through one form or another, our social welfare programs, our actual sponsored clinics by the professions, the indigent programs where

there is absolutely no person that just can't afford any care, then we may come and say we'd like to have this removed, but that's not a point here now.

SENATOR STURGEON: Mr. Chairman, here is a place to get a plug in for the Lions Club.

CHAIRMAN THOMPSON: Yes, I belong, too.

SENATOR STURGEON: They have a great interest in the eye and the sight of people, particularly children in California.

THE WITNESS: Lions Club is incidentally doing a very fine job in that regard and taking care of children, so they don't end up in some of these other places.

CHAIRMAN THOMPSON: At this point I think we'll take a five minute recess.

THE WITNESS: Thank you, gentlemen.

(Witness excused)

(Whereupon a short recess was taken, after which the following proceedings were had:)

CHAIRMAN THOMPSON: Our next witness will be Mr. Eugene Wilson representing the California Retailers Association. Mr. Wilson?

EUGENE B. WILSON,

called as a witness by the Committee, was examined and testified as follows:

THE WITNESS: Mr. Chairman, the California Retailers Association does not wish to make a formal

appearance. However, we have a prepared statement which you now have before you for your consideration. The Association felt that the views expressed in the statement together with the comments we made at Lake Tahoe adequately present our objections to the Senate Bill Number 1062.

CHAIRMAN THOMPSON: Thank you, Mr. Wilson. Then if there is no objection from the members of the committee, I see there is only one here, we will make this statement a part of our record.

(The statement reads as follows:)

"Mr. Chairman and members of the Committee, my name is Eugene B. Wilson. I am an attorney at law licensed to practice in California, and I represent the California Retailers Association. We sincerely appreciate the opportunity to present for your consideration our views regarding the subject matter contained in Senate Bill 1062.

Many of our department stores have optometry departments, all of which have had good public acceptance for many years. The stores feel that this is a good service for their customers and the customers like it. Therefore, we would oppose any legislation which might tend to prohibit the continuance of optometric services in these stores. We do not have any assurance that the effect of SB 1062 would be limited to what we may now consider to be discount houses, and for this reason alone, we would oppose

the general approach of this bill. I will refrain now from going into the factors involved on this point since they were covered at the September 17th hearing. However, our objections to this bill are many. One of them is based on well established principles which were enunciated by the California Supreme Court in the leading case of Hewitt v. Board of Medical Examiners of the State (1906), 148 Cal. 590. In a discussion of the power of the Legislature to revoke licenses granted to professional persons and the right to delegate this power to boards of men skilled in the profession, the Court said the following:

> 'Such power, however, to revoke the license of a practitioner when conferred upon a board must be under provisions of law which are reasonable, must apply to matters of conduct upon the part of the practitioner which affect the health, morals, or safety of the community, and the acts or conduct which shall render him liable to the penalty of forfeiture of his right to practice his profession must be declared with such certainty and definiteness in the act that he may know exactly what they are. The right to practice medicine is, like the right to practice any other profession, a valuable property right,

in which under the Constitution and laws of the state, one is entitled to be protected and secured.'

The Court, then, has stated that the power to revoke a license must apply to matters of conduct upon the part of the practitioner which affect the health, morals or safety of the community. For the optometrist who is presently practicing in a traditional mercantile establishment, the only conduct that counts, under the approach of SB 1062, is the conduct of the store as to its future pricing policies. It is difficult to understand what bearing the pricing policy of a store could have upon the health, safety or morals of the community, except that lower prices are generally considered to be in the best interest of consumers.

The only conduct of the practitioner which SB 1062 prohibits is practicing in a particular location, ostensibly a discount house, but actually in any mercantile establishment which is found to be offering more than 75 per cent of its merchandise at discounted prices. The difficulties involved in attempting to define a discounted price were discussed at the hearing on September 17. Suffice it to say that such a term defies definition in an industry as changing and dynamic as the retailing industry.

The proponents of this bill, in effect, are asking the Legislature to declare that practicing in a mercantile establishment which follows a certain pricing policy is somehow inimical to the health, morals or safety of the community. Obviously, there is no automatic relationship between the pricing policies of a store and the nature of the quality of service rendered by any licensed person legally operating within that store. If there are true health and safety problems involved due to physical conditions within the store, the State Department of Public Health and local health departments throughout the state presently have sufficient power to correct such a situation, as they do whenever real health and safety factors are involved. If the health and safety problem is caused by the manner in which the optometrist operates, it is no solution merely to prohibit the right to practice at some particular location. There should be minimum standards of health and ethics applicable to all optometrists wherever located. If the poor conditions, regarding which we have heard testimony, exist in some discount houses, they could exist anywhere. The problem is better solved by adequate standards which regulate the manner of practice rather than by an attempt to completely prohibit the practice of optometry in a particular segment of an industry.

In the above quotation from the Hewitt case, the

Supreme Court also stated that the acts or conduct which shall render a practitioner liable to the penalty of forfeiture of his right to practice must be declared with such certainty and definiteness in the act that he may know exactly what they are. The concern here is one of fair play. The intent is to make sure that there is clear notice to a practitioner of the limits within which he may practice without worry that his license may be suspended or revoked by some innocent act or omission to act. When judged against this standard, the bill leaves much to be desired.

SB 1062 would require an optometrist practicing in a retail store to somehow be aware of top-level pricing decisions to make sure that the store would not embark upon a course of action that would cause him to be operating in violation of the law. If a traditional store did decide to compete with a nearby discount house on a price basis, any optometrist operating in that store would have to move out or risk suspension of his license. This would appear to be deprivation of a valuable property right without any rational justification. As a practical matter, the optometrist should not have to concern himself with the pricing policies of the store.

In the Hewitt case, the Supreme Court vioded a provision in the then medical act which stated that 'all

advertising of medical business in which grossly improbable statements are made' should constitute unprofessional conduct for which the practitioner could lose his license. This relatively simple provision was voided on the grounds that it was too indefinite and uncertain to be capable of enforcement. We submit that alongside of SB 1062 this medical act provision looks like a mathematical formula. An optometrist who has been operating successfully in a mercantile establishment for a period of time has gained for himself a valuable property right. We are confident that the Legislature is just as concerned as a court that this property right shall be protected. (See Randall v. State Board of Medical Examiners (1930), 110 Cal. App. 61).

However, we do acknowledge that the practice of optometry in discount houses may be creating problems in areas other than health and safety which may be of sufficient importance to justify legislation.

One problem, admittedly, is that the customer may receive the impression that the optometrist is offering his own services at a discount merely because he is practicing in a discount house. The average customer has no way of knowing that it is illegal for any optometrist to offer his service at a discount. Therefore, arguably at least, the customer may be misled. If such a false impression is created, there is reason enough for legislation. However,

it would seem that the problem could be solved by requiring some notification to customers at the optometric location in the store that it would be illegal for the optometrist to offer his services at a discount. In other words, a legal requirement that any optometrist who operates in a discount house must post a notice which simply summarizes the provisions of law which prohibit him from offering his services at a discount. Of course, we are still left with the problem of defining what is a discount house. However, if the penalty does not involve suspension or revocation of the right to practice, except for continuous and willful violation, any ambiguities in such a requirement would be much more tolerable.

The only other justification for a bill aimed only at discount houses is related to the first. If the customer is under the impression that he is receiving discounted prices from an optometrist, it would constitute unfair competition as to other competing optometrists. However, the proposed solution mentioned above should also take care of this problem.

In summary then, we feel that the approach of SB 1062 is not the solution to the problems which have been raised by the proponents of the bill. Its language is ambiguous, and the effect of the bill could be extended to traditional retail stores. SB 1062 is penal in nature, and

neither the general approach of the bill nor its actual provisions appear to meet the fair-play requirements set forth by the California Supreme Court. We sincerely trust that your Committee will reject the subject matter of SB 1052."

SENATOR STURGEON: Mr. Chairman, I would like to ask a single question.

CHAIRMAN THOMPSON: Would you answer one question, Mr. Wilson, for Senator Sturgeon?

THE WITNESS: All right.

SENATOR STURGEON: Again referring back to the testimony we received at Lake Tahoe at the hearing up there, I'm quite sure that your organization would have no objections to defining more carefully the factors of a building and sanitation and so forth regarding the practice?

THE WITNESS: No, we would have no objection to that.

SENATOR STURGEON: I believe it's a fact that the offices that are located in the establishments which you represent pretty much conform to the average medical office already.

THE WITNESS: We feel they do, yes.

SENATOR STURGEON: This I think has been the testimony, but if restrictive legislation were put in to make all offices comply to some basic health standards,

your organization would have no objection?

THE WITNESS: None at all.

SENATOR STURGEON: Thank you.

(Witness excused)

CHAIRMAN THOMPSON: Then our next witness who will present our next witnesses is Mr. J. Howard Sturman.

MR. J. HOWARD STURMAN: I guess I'll make some statements myself.

CHAIRMAN THOMPSON: You go ahead any way you desire.

J. HOWARD STURMAN,

called as a witness by the Committee, was examined and testified as follows:

THE WITNESS: Gentlemen, my name is Howard Sturman. My firm are the attorneys for the Optometrists for Fair Practice Procedures, and I am happy to again have an opportunity to appear before this committee and present further testimony in opposition to proposed Senate Bill 1062.

You should have before you now three small brochures which are summaries of the statements which I and the two witnesses who I propose to present, will make, with exhibits. Before I make the statement which I was prepared to make, I would like to make a few comments on some of the testimony which was made earlier today. I think an important thing which is being overlooked is the

history of this particular aspect of our economy which is loosely classified as the discount house field. At one time this was a correct statement of what it was, a correct title perhaps, but I don't believe it's true any longer. I'm not familiar with this discount store manual which Dr. Deane quoted from. At any rate, I know it's not at all applicable to the optometrists for whom I speak at this time. At one time when this field evolved, these stores did call themselves discount houses. They advertised discounts. There were many inadequacies in their leases and in their practices, I think, which would have been very detrimental to professional practice in such stores. These practices have almost entirely been eradicated. The stores no longer use the phrase "discount". They maintain and mention standard prices, and in the exhibits which are attached to my statement are sample brochures of two of the leading stores in this field. You will not find one mention of the word "discount" nor one mention of "optometrist" in those brochures. We have many others, but those are samples. The leases have been changed and tightened up to provide specifically that the stores have no control over the optometrists who practice within them. These discount manual policies which were quoted may be good merchandising policies for the mercantile aspects of the store, but they do not have application to the bulk of the optometrists in

these locations, and as our association progresses and as the owners of these stores become more familiar with the requirements of law, more and more of them, and practically all of them today, do comply with all regulations now in effect.

Now, with that background, I will make one other point: There are a few optometrists practicing throughout the State of California in mercantile locations who the association for which I speak cannot defend. It has been our position steadfastly that anyone who practices in an unprofessional manner should be subject to particular sanctions, irrespective of the place where they practice, whether it be in a mercantile establishment or not. What we pointed out at the last hearing was that there are no California standards specifically. There are of course optometric standards established as to visual care and lenses and prescription filling. We are saying that there are no California regulations specifically delineating what any individual optometrist shall do. We would be in favor of such as we stated in the last hearing, we would support any legislation uniformly applicable to all optometrists which would regulate and establish minimum standards for the health care of the public.

We have already presented at length our feelings that the proposed legislation is motivated purely by

economic considerations of those who are urging its passage and that it is not in the public interest, and we have cited the fact that it is not the general public but certain optometrists who are pushing for passage of the proposed bill. We have pointed out the discriminatory and impractical aspects of the bill, and have emphasized that existing legislation and regulations are more than adequate to protect against actual abuses. Finally, we have emphasized our willingness to help promulgate any necessary regulations which will further protect the public, and which are applicable to the entire profession of optometry, as opposed to just a small segment.

However, at the last hearing, and I might say again today, the charge was made that optometrists practicing on the premises of certain mercantile concerns use inferior materials and equipment, and give inferior service. This is a gross misstatement of fact. It may be as I indicated that a few optometrists practicing in such locations do substandard work and cut corners on materials and equipment, but this is equally true of many optometrists nor practicing in mercantile establishments. The degree of professional competency of the optometrist is in no way connected with the geographic location of his practice, and in the survey which we conducted among non-mercantile location optometrists, the results of which we

submitted at the last hearing, this position was dramatically sustained. Similar variances in quality of services are evident in all professions, and it is obvious that some members of a profession will always be less proficient and conscientious than others.

But we feel you do not outlaw an entire profession because of a few unethical practitioners, any more than you outlaw a segment of that profession because of improper practices by a few members of that segment. As we have repeatedly stated, almost all optometrists practicing in mercantile locations conduct ethical, competent, first quality practices.

At this point I would like to interject the fact that those who have testified, those optometrists who have testified in support of this proposed legislation, have themselves had limited experience in the so-called discount field, in the mercantile field. Many of these have failed in their own private practices, but the stores which they are talking about represent only a limited, a very limited, segment of the total overall picture of mercantile establishments. These witnesses I do not feel have seen the majority of these locations, and I would say to the members of this committee that they are welcome to walk into any of these membership department stores or other low markup department stores and examine the

optometric facilities themselves. I would say that in almost all cases they would find that the conduct of the practice there meets any professional requirements which they would feel would be necessary.

Today we would like to present documentary evidence to support our position. In addition to two optometrists who will testify personally, and whose statements you have before you, coupled with exhibits, we have compiled a series of photographs, letters and advertisements, which are representative of the optometrists for whom I speak, and which bear out our contentions.

These photographs, and we have many, many more, of course, not included, illustrate the clean, modern facilities in which these optometrists practice, the modern equipment which they use, and the privacy of their examination rooms. Some of the equipment which Dr. Deane mentioned is of such great cost that there are very few optometrists in the entire State of California, no matter where practicing, who have such equipment, and very few optometrists anywhere located have better equipment than in the bulk of the offices of the optometrists for whom I speak. The letters attest to the high quality of the materials used by these optometrists. We have letters from a great number of supply houses attesting to the fact that the quality of the merchandise purchased by the optometrists

for whom I speak is equivalent to that of any other optometrist.

The advertisements illustrate the lack of blatant price claims and the lack of mention of either discounts or of the optometrists located in the establishments' advertising.

This latter point bears expansion. We have carefully examined the newspapers of the leading communities of the State. Those department stores loudly proclaiming discounts and fantastic bargains are almost without exception the so-called "traditional" department stores. The membership department stores stress the convenience of shopping, the advantage of having a complete shopping center under one roof, and the fact that the consumer will save money by shopping there, but do not go nearly as far in their claims as do the other "traditional" stores. And, of course, it is a proven fact that one-stop shopping is a saver of both time and money for the consumer.

We have canvassed, shopped and photographed optometric offices not located in mercantile establishments. We have found offices next to bars where the signs seemed to indicate that the office was associated with the tavern. We have seen run-down, dirty offices. We have seen offices next to pawn shops and adjacent to stores advertising discounts and easy credit. We have seen offices using

blatant and flashy signs, with claims of easy credit, and with large eyes flashing from gaudy windows. We have seen advertisements imploring the public to "see us before you see any other optometrist." We have pictures and clippings to prove this. Yet no legislation is aimed at these offices. The offices of the optometrists for whom I speak are in almost every case clean, modern, well-equipped, make no representations as to credit, and do no advertising whatsoever, yet the proposed bill seeks to close those offices. The lack of public interest or benefit in such discriminatory legislation seems obvious to us.

A final word should be said on the subject of fees. We have already pointed out that the fees of the optometrists practicing in mercantile establishments are set by the optometrists themselves, taking into consideration the factors that any professional person considers in setting his fees: his overhead, his clientele, and the nature of his services. We have indicated that a consumer who wishes to shop around can always find an optometrist in a non-mercantile location who will charge less. What this committee may not realize is that fees for health care in California are already higher than in most other states and that to many persons coming from other states the fees charged by the so-called low fee optometrists, are already much higher than they are accustomed to paying.

The proposed legislation, by limiting areas available for practice, will raise these fees even higher.

It is a well known and elementary fact of which every consumer is aware, that generally speaking the same goods and services can be had in different locations for different prices. Consumers expect to pay less at Sears than at Saks Fifth Avenue or Bullocks. Patients expect to pay less to the downtown credit dentist than to the Beverly Hills dentist. Similar statements can be made with respect to doctors, lawyers and other professions. These expectations are sometimes unfounded, but they are nevertheless present. Yet no one maintains that Sears, the downtown credit dentist, the family doctor, or the rural lawyer are discounting prices from those of their higher priced colleagues. The price differential system is part of our basic economy. In fact, it's countenanced in our code which states that this legislation shall not be presumed to set fees. The fact that a consumer expects to save money in a membership department store does not mean that the lessees of that store are "discounting" prices. At most it means that they regularly charge less or use a lower markup than competitors at other locations, and it does not always mean that. It may be that their price structure is exactly the same or higher. If actual discount representations are made by optometrists they are subject

to existing sanctions, but mere presence in a mercantile establishment cannot realistically or legally be presumed to be such a representation.

I thank you for your patients and attention in this matter which is of such importance to the consumers of this state. If there are any questions, I would be very happy to answer them.

CHAIRMAN THOMPSON: Senator Slattery?

SENATOR SLATTERY: Could you tell me, Mr. Sturman, just about what is in here? I'll look at these later, but I would like to know just what you are pointing out in these exhibits.

THE WITNESS: The exhibits that are attached to my statement consist of letters in five different optical dispensing companies to various optometrists, and one which was purportedly addressed to this committee but which was mailed to one of the other optometrists stating the manufacturing firms of the optical equipment which is dispensed to these doctors, and indicating that they are first quality and have the same quality as dispensed to all other practitioners. The next is a series of six pages of photographs which were taken by the optometrists themselves, and which show various aspects of their office. For example, they will show the type of equipment which is used, the closed refracting rooms, the clean and neat

atmosphere of the offices, certain of the facilities that are available. One of the best pictures of facilities available you will find attached to the statement of Dr. Opengart, which he will give later, pictures of the office in which he is employed. The advertisements are sample brochures, one of which is from one of the stores in Santa Ana which was almost a year ago, and another which is the most current bulletin of the Unimart stores which have a number of stores, in each of which is located the office of an optometrist, and those are included to illustrate that there is no mention of the word "discount" in these brochures which are the standard operating policy brochures of these stores, and the word "optometrist" or the fact that there is an optometrist on the premises is nowhere mentioned in these papers. The person comes to the store, the optometrist is present, it is true. And I might state on that point that impulse buying has nothing to do with the amount of time spent on a patient. Because a patient passes an optometric office and sees it does not mean that when he walks into that office he's going to get inferior care. It means he's going for the care which he probably has neglected and having it brought to his attention he now intends to remedy that. Once he gets into the office, it is up to the practitioner how he is treated in his care. Of course we maintain that those optometrists for whom I

speak give the highest degree of attention and care to their patients, and we expect to bring this out in the testimony of these two optometrists themselves.

CHAIRMAN THOMPSON: Doctor -- or not doctor, Mr. Sturman, I notice in one of your pictures, it says, "Eyes examined, Rx's filled," prescription lens or whatever it is, "Contact lens, glasses fitted, hearing aids." Now, are hearing aids also fitted as part of the service?

THE WITNESS: Some, I think a few of the optometrists do in fact dispense hearing aids. I think this is also true if you walk down on Broadway here, a few blocks farther down you will find a few of the store front optometrists have large signs that advertise hearing aids. Throughout the State of California a great many optometrists have added hearing aids as an adjunct to their practices. The members of our association have stated to me they have not found this very satisfactory thing and many have discontinued this. I think that there is no particular significance to the fact that it appears in this picture because I think it's probably the same percentage in mercantile and non-mercantile establishments who do and do not dispense hearing aids as well. I have a picture, in fact, in my briefcase of one of the store front optometrists in Los Angeles which has a very large sign advertising hearing aids right below his sign which says optometrist,

and this is of course not one of our group, just one of the pictures we have taken.

CHAIRMAN THOMPSON: Any further questions by the committee or the staff?

THE WITNESS: Then I would like to introduce to the committee and present Dr. Opengart.

(Witness temporarily excused)

ARNOLD OPENGART,

called as a witness by the Committee, was examined and testified as follows:

THE WITNESS: Good morning, gentlemen. I am Dr. Arnold Opengart, 3500 Highland, Chula Vista, California. I am an optometrist duly licensed to practice in the State of California, having received my license in 1954 after graduating from the Pacific University College of Optometry in Forest Grove, Oregon. Prior to my attendance at that university, I received a Bachelor of Arts degree in economics from New York University in 1948. Two days ago I marked my thirty-eighth birthday. Upon graduation from Pacific University I remained on the staff of the college as a graduate clinical assistant for one year. I left to set up my own private practice in Phoenix, Arizona. I am licensed not only in California but in the states of Arizona and Washington and have passed the written examination of the National Board of Employers in Optometry.

I was in private practice from February of 1955

to May of 1962. Let me amend that -- I'm sorry, gentlemen. I was in private practice from February of '55 to November of 1961. In 1960 I was president of the Arizona Optometric Association and prior to my departure from Phoenix I was a member and past president of the Board of Trustees of the Washington Elementary School District in Phoenix. I'm also past president and charter member of the Thunderbird Lions Club of Phoenix, Arizona. And I am past president of the Central Arizona -- I was a president of the Central Arizona Optometric Association.

In addition, in 1956, I became what I believe and what I was told by the service the first optometrist to be given a professional services credit by the United States Public Health. My duties consisted of travel throughout the State of Arizina to the various Indian reservations where I examined, prescribed, and dispensed glasses for the various Indian tribes. In that position I also served informally as a consultant for the contract care officer in setting up standards for examination and further employment of optometrists by the Public Health Service.

Since August 1962 I have been employed as an optometrist by Dr. Lael Peters, whose office is located in Unimart Store, San Diego, California. At no time has the office in which I have been employed used any but first quality materials, of the same type used by optometrists

generally. The attached letter from the supplier of Dr. Peters substantiates this fact.

The office of Dr. Peters in which I am employed is new and modern in design, well lighted and appointed, and contains the most modern optical equipment. This equipment is better than I have seen in many, many of the private offices in Arizona. The office contains private, enclosed examination, refracting and dispensing rooms. It is clean and sanitary and contains all necessary facilities including hot and cold running water, and a thoroughly equipped laboratory. The attached pictures of Dr. Peters' office will illustrate these points.

When interviewed by Dr. Peters in July, I specifically stated to her that one of the conditions of my employment was that I must have complete freedom in the use of my professional judgment in prescribing and treating patients of her office. She readily agreed to this, and this policy has consistently been followed.

My only instructions from Dr. Peters with reference to attention to patients was to prescribe for the needs of the patient. There is no high pressure or unnecessary double selling.

At this point I might interject that within the profession there has been a spate of institutional advertising the past five to six years by the ophthalmic

manufacturers and suppliers -- I won't say pushing because frankly I think any of my colleagues would admit that you can't prescribe fully for the majority of patients with only one pair of glasses, but these manufacturers have been -- pushing -- for lack of a better word at the moment, the idea of what they call multiple pairs or multiple prescribing, Bausch & Lomb Optical Company being one of the leading proponents of this.

Now, to get back, there is no limitation on the length of time to be spent with any patient. Our offices work by appointment. Many times due to various reasons, perhaps the patient's feeling that day, perhaps the feeling of the examiner, sometimes a patient cannot be comfortable with the prescription as originally prescribed. We do not slough off these patients, they're not told you have to wear them for six months. We make another appointment, and do another examination, and if necessary, prescribe a new pair of lenses and fill their needs to our satisfaction and theirs. In addition, again I would like to interject, that we conduct as part of our examination an examination of the eyes of the patient for possible pathology. This is part of our education in every college of optometry. When we feel or we actually detect or we are suspicious of the presence of occular pathology, there is no hesitation in referring that patient to a medical eye physician for his

care. If the volume of business is such that we cannot handle all patients adequately and to their welfare, our solution, or I should say Dr. Peters', is to hire additional optometrists and not to cut down on the care to each patient. And I would like to apologize for using "our", the term "our", because I don't feel I work for Dr. Peters, I work with her as a colleague, as a professional man.

The store in which the office of Dr. Peters is located conducts its business in a dignified manner, similar to any reputable department store or too many private practices. There is no undue notice or confusion, and the atmosphere in our office is the same as in any professional office. The store from whom this office space is leased in no way controls the clientele, practice, or fee structure of Dr. Peters. This store does not use as blatant advertising as do the more traditional department stores against which the proposed legislation is not intended to apply, and it in no way advertises optometric services.

We fill a great many medical prescriptions which are usually then evaluated and checked by the prescribing physician for accuracy and quality, and have had complete satisfaction with our work by these same physicians. That part of our practice which concerns itself with the filling of medical prescriptions is growing, we feel, due to this satisfaction.

Dr. Peters maintains regular fee schedules and no one in our office ever represents or infers that our fees are discounted. In fact we could name other optometric offices in our community which regularly charge lower fees than we do, or which regularly use blatant advertising, but as these offices are not located in mercantile stores, np legislation has been aimed at them.

The public has not complained about our practice. To the contrary, public acceptance and referral has been great. The interests of the public have been protected in our offices far more than in some offices not located in mercantile establishments. Both Dr. Peters and myself are convinced that the proposed legislation is not advanced for the public welfare, but instead for the private economic welfare of those optometrists who support it.

Thank you for the opportunity to appear before you.

CHAIRMAN THOMPSON: Questions of the members of the committee?

SENATOR STURGEON: Just one, Mr. Chairman. On page two, the third paragraph, "We fill a great many medical prescriptions which are rechecked by the prescribing M.D." I take it then that you do fill prescriptions that you yourself do not prescribe?

THE WITNESS: Yes, sir.

SENATOR STURGEON: They might be glasses which an

M.D. has -- I don't know, how do they do this? Do they simply give an eye prescription and he takes it to whoever they want or are they referred to you by the M.D.?

THE WITNESS: No, sir. They're not referred to us by the M.D.'s. He merely writes the power that he wants to prescribe for the glasses in each eye, and the patient is free then to go to whomever or to whatever office they wish to have it filled.

SENATOR STURGEON: Do you believe this is a usual or occasional practice at least throughout California?

THE WITNESS: I believe so to the best of my knowledge that -- do you mean, sir, that the patient chooses to go to one particular office?

SENATOR STURGEON: I think that probably could be done anyplace, but what I'm wondering, if this is the usual thing where possibly M.D.'s prescribe the prescription for the glasses and the patient would take them to an optometrist located in a discount house to be filled.

THE WITNESS: I'd say that there are as many coming to our offices as would possibly go to a private office or to an optician.

SENATOR STURGEON: What I was trying to determine is whether your office might be a better office than many in the same type of location throughout California? You don't have to answer that.

CHAIRMAN THOMPSON: Just on that same thought, doctor, you say "We fill a great many medical prescriptions which are rechecked by the prescribing M.D. for accuracy and quality." You folks make up these lenses for the prescribing --

THE WITNESS: We order the lenses as prescribed by the physician, and then fit these lenses as the terminology of the law states, adapt the lenses and the frame to the patient, what we call dispensing.

CHAIRMAN THOMPSON: Yes. In the so-called discount houses, do the doctors for the most part fill the prescriptions themselves for glasses? I mean if a patient comes in, do you make up the glasses for him?

THE WITNESS: I can tell you the procedure in our office, and I believe it would be in the majority of offices. The patient comes in with a prescription which as I believe Dr. Deane mentioned is fairly sketchy. All it mentions is the power of the lens, and there are other factors that have to be considered. We assist the patient in choosing the proper frame for them, size, fit, color, so forth, and then order these lenses through our usual facilities, from our supplier, and the frame, and then the patient is notified that their prescription is ready, they come in, and we in turn then fit these glasses to the patient's face and head.

CHAIRMAN THOMPSON: I see. Well now --

THE WITNESS: If you mean do we personally make up the lens itself?

CHAIRMAN THOMPSON: No, I know that's done by --

THE WITNESS: Yes, sir.

CHAIRMAN THOMPSON: I don't mean that, but you do sell or complete the order of the lens?

THE WITNESS: Yes, sir.

CHAIRMAN THOMPSON: Now, why does not the optician do that himself?

THE WITNESS: Well, opticians do. That is the function of the dispensing optician, and many of the patients do choose to bring their prescriptions to a dispensing optician's store. You see, our profession is unique in that we offer the complete visual service, and in many cases I feel, this is only personal and perhaps it's chauvinistic, but I feel we can do a better job as optometrists because we know the patient's needs from start to finish, unlike a physician's prescription for a drug where he specifies the dosage, the time to be taken, how many to be taken, and so forth. The average prescription for glasses by a physician, for instance if it's a bifocal, no type, what height, what is the patient's occupation, many of these factors determine what form the final prescription should be, and I would like to choose to believe

that a great deal of patients bring their prescriptions to optometrists because they feel we are better equipped and more capable in filling them.

CHAIRMAN THOMPSON: Well, that's something we're not getting into. Then the patient would return to the prescribing optician?

THE WITNESS: To the prescribing physician. In the majority of the cases, sir, if I may say so, the physician usually tells the patient that he would like them to bring the prescription back to him so that he can check it to make sure that it is as he prescribed.

CHAIRMAN THOMPSON: And that is done by optometrists regardless of where they happen to be practicing --

THE WITNESS: Yes, sir.

CHAIRMAN THOMPSON: -- whether it be in a discount store or a private office?

THE WITNESS: Yes, every prescription when we order from our suppliers, when it comes back to us, is checked by myself or the other optometrists working in the office, and there are usually two of us, and if it does not meet the prescription as we have written it, as far as decentration power, tint, many other factors, then it is returned to the laboratory.

CHAIRMAN THOMPSON: I believe these questions are general and could be asked of any one of you.

THE WITNESS: I think it would apply, sir, no matter where a person practices.

CHAIRMAN THOMPSON: Tell me, do you have any idea, or did we have any testimony regarding the number of optometrists that practice in the so-called discount houses?

THE WITNESS: To the best of my knowledge there hasn't been any figures given. However, I would not feel equipped to be able to tell you what percentage or what number.

CHAIRMAN THOMPSON: Very well. I have no more questions. Do you folks?

SENATOR STURGEON: No.

DR. DEANE: Senator, I would be happy to give that information to you if you like.

CHAIRMAN THOMPSON: Okay.

DR. DEANE: Now, as of September, there may have been some changes since then, there were forty-eight discount houses that had--what we term discount houses had optometrists.

CHAIRMAN THOMPSON: Yes.

DR. DEANE: Now, some had perhaps more than one optometrist as the doctor here has pointed out, so that there were two optometrists there, and so it would probably be somewhat higher than that, but I would say conservatively,

maybe sixty optometrists, sixty-five optometrists. For your further information there are fifty-five so-called regular department stores that have optometrists, forty-three jewelry stores in the State of California as of that September 12th date, I believe was the cut-off date on the survey.

CHAIRMAN THOMPSON: Somewhere around one hundred fifty to two hundred.

DR. DEANE: About one hundred forty-six establishments within the State of California, amounting to seven per cent of the practitioners.

CHAIRMAN THOMPSON: Seven per cent?

DR. DEANE: Yes.

CHAIRMAN THOMPSON: Thank you very much.

SENATOR SLATTERY: I'd like to ask Dr. Opengart a couple of questions, if I may. First I would ask according to the picture, Dr. Peters is in partnership with some other doctor, is it, or how come you have another name up here?

THE WITNESS: That office is in one location, that's Dr. Kasanoff and Peters. I work for Dr. Peters in her office in Chula Vista.

SENATOR SLATTERY: How many offices does she have?

THE WITNESS: Sir, if I'm correct, the state law specifies that no optometrist can have more than two places

of practice, two offices.

DR. DEANE: Unless they were prior to October 1st.

THE WITNESS: Yes, I don't know if there was a grandfather's clause.

DR. DEANE: '59.

THE WITNESS: But you can only have two offices.

SENATOR SLATTERY: Then it's just the working optometrists, are you and Dr. Kasanoff?

THE WITNESS: No.

CHAIRMAN THOMPSON: Others?

THE WITNESS: I work in Chula Vista office with Dr. McDowell, and Dr. Peters works occasionally in Chula Vista office and occasionally in the University office, but she has worked and does work in both offices as the occasion demands.

SENATOR SLATTERY: You and Dr. Kasanoff are employed by Dr. Peters, you are employees of Dr. Peters?

THE WITNESS: I am an employee of Dr. Peters. However, I don't believe Dr. Kasanoff is an employee.

SENATOR SLATTERY: Well, we'll stick with just you then. You are an employee?

THE WITNESS: Yes, sir, I am an employee of Dr. Peters.

SENATOR SLATTERY: And are you paid a salary or commission or combination?

THE WITNESS: I am paid a salary, sir.

SENATOR SLATTERY: Straight salary?

THE WITNESS: No, sir, truthfully, after I showed my competency I am paid an additional sum over and above the basic salary, and this sum that I am paid, as I understand it, because I have not worked for anyone prior to now, I have always been in private practice, however, I believe that in many optometric offices, many professional offices of different types, that usually a person is granted the privileges of earning more based on the size of the practice. In other words, if a practice should have an income of a certain amount, then the employee is usually given an option of having part of his salary based on that greater amount.

SENATOR SLATTERY: Would you call this extra, greater amount that you receive as a commission? Is it based on the number of --

THE WITNESS: It is not based on the number of prescriptions I write or the number of frames I prescribe. It is based on the total income of the practice.

SENATOR SLATTERY: Sort of a bonus?

THE WITNESS: Yes, sir, whether it be due to my efforts or Dr. Peters when she's here or Dr. McDowell who works in the office with me. It's not tied exactly to the amount of prescriptions that I might prescribe personally.

It's merely the total business of the office.

SENATOR SLATTERY: Were you here when one of the previous witnesses testified about the price of advertising, nineteen ninety-five?

THE WITNESS: Yes, I was.

SENATOR SLATTERY: Do you sell glasses in a similar manner with an advertised price?

THE WITNESS: No, sir, we do not advertise our fee schedule. The only way that a patient knows of our fees if they come into the store and ask. There is no advertising. There is no promulgation of any fee schedule in any manner.

SENATOR SLATTERY: Do you feel that your fees are comparable to the average fee charged by those in the private practice?

THE WITNESS: Sir, I have practiced prior to coming to California only in Arizona, and I would say that in Arizona, the fees are not too much different, and I understand that in the same community in which I am now employed, that there are offices where you can obtain visual care at a lower fee than ours, but we don't have any advertising or anything of that sort with these as, you know, nineteen ninety-five, or twenty ninety-five. We have a fee schedule based on the cost of the examination, the cost of the lenses, varying, depending on the patient's

needs, and the cost of the frame which they choose.

SENATOR SLATTERY: What would you say, doctor, is the amount of time that would be comsumed by the average examination in your office?

THE WITNESS: The average patient I spend a half hour with, sir.

SENATOR SLATTERY: You consider that as probably about the average of the profession?

THE WITNESS: I'd say average, yes. There are some that spend more, there are some than spend less. I don't feel, however, that you can give an adequate examination at any time less than a half hour.

SENATOR SLATTERY: Even when the office is full?

THE WITNESS: Yes, sir, even if the office is full. If you have a patient that has a problem that does not answer readily to your routine examination, then I feel -- let me put it this way: When I graduated I got a diploma that said I was a Doctor of Optometry, that said I was qualified to offer my services for the visual care of the general public. And I feel that I personally have an obligation to these people. Sure, I work at my profession to earn a living and to provide for my family, but any profession requires more than just the basic desire to make a dollar. You owe -- you have an obligation to that patient. If you don't fulfill that obligation, you don't

belong in a profession no matter what it might be, and this is the way I approach my job and my patients, and I would say that the climate in Dr. Peters' office is the same for any practitioner that works there. This is my personal belief in my profession is the way I am.

SENATOR SLATTERY: Thank you.

CHAIRMAN THOMPSON: Would you say you're typical of those that practice in the discount houses?

THE WITNESS: Sir, I haven't practiced in too many of them. I haven't met too many.

CHAIRMAN THOMPSON: That's an unfair question, anyway.

THE WITNESS: I would like to say that those of us who work for Dr. Peters, we discuss this, shop talk you might say, and we feel the same way. I know Dr. Peters, and I don't think she'd have anybody in her employ who didn't have this obligation to the patient.

CHAIRMAN THOMPSON: Is your office situated like pictures you have submitted, that you do have privacy and sanitary provisions to wash your hands and all of those things?

THE WITNESS: Yes, sir. Yes, sir. When I close the door to my examining room, I am in complete privacy with the patient, and I may point out that when I was in private practice in Arizona for the first four years, I

couldn't even afford a receptionist, and so I was continually interrupted by phones and patients coming into the office. In this office we are fully staffed; we have a receptionist and I am never interrupted while I am with a patient. None of us are. We give that patient that time that they are paying for, solely.

SENATOR STURGEON: Mr. Chairman?

CHAIRMAN THOMPSON: Yes, Senator Sturgeon?

SENATOR STURGEON: Doctor, did I understand you to say you work by appointment?

THE WITNESS: Yes, sir.

SENATOR STURGEON: What happens if people wander by and say, "Oh, I've been putting off an examination"?

THE WITNESS: If they should come over and ask to have their eyes examined, and we have no openings in our appointment book, we tell them that they have to make an appointment, we can not take them now, and looking at our book either later in the day when we do have an opening or the next day, or a week sometimes when they say, "Well, Saturday or Monday or Tuesday is the only day I can come in," and that appointment is made in our appointment book.

SENATOR STURGEON: You don't operate like a dentist then, squeeze an extra one in once in a while?

THE WITNESS: We can't very well because sometimes a dentist can complete his services in a fairly short time.

In other words, if he's working on a cavity, he might prepare it, and can do so in ten or fifteen minutes and put in a temporary filling or something for some reason or another, and then dismiss that patient, but once we start a patient, we're committed to a certain routine if we're doing an adequate job, and you can't squeeze them in between when you're working by appointment. If you have a patient, I feel if a patient has been kind enough to make an appointment and go out of their way to be there on time, we owe it to them to take care of them on time, and not squeeze somebody in and have them waiting.

SENATOR STURGEON: Thank you.

CHAIRMAN THOMPSON: Do you folks have any questions?

MR. PEDIGO: No.

CHAIRMAN THOMPSON: Thank you very much, doctor.

THE WITNESS: Thank you, gentlemen.

(Witness excused)

J. HOWARD STURMAN,

called as a witness by the Committee, resumed the stand and testified further as follows:

THE WITNESS: Before introducing our last witness --

CHAIRMAN THOMPSON: Will this be your last witness?

THE WITNESS: Yes, one more.

CHAIRMAN THOMPSON: Then we will go on and finish the optometrists.

THE WITNESS: Yes, I hope we can have the indulgence of the committee. I think the last witness has a fairly short statement. I would like to state that in the room today we have a great number of the optometrists for whom I speak. I know these men and the one lady personally, and I am convinced that all of these people are of the professional quality of Dr. Opengart and Dr. Peters, and that the people for whom I speak are of the highest quality professional people.

Senator Thompson, I think perhaps there might have been some confusion in your mind as to terminology. An optician I believe -- I'm only a layman myself, but I've been told that an optician does not prescribe, an ophthalmologist does, and if I'm wrong, one of the doctors will correct me. The optician merely dispenses. I believe the question of the branch office has been answered. Senator Slattery asked the question right at the beginning. I did mean to answer it.

CHAIRMAN THOMPSON: An optician is an M.D.

THE WITNESS: No, an ophthalmologist is an M.D. An optician is not. An optometrist is a doctor. An O.D.; and ophthalmologist is an M.D., and an optician is neither.

The usual lease which we draw in our office and

which is drawn for the people in our association is a lease with the optometrist who will practice. In one or two cases there are optometrists who are engaged in the business of equipping offices and sub-leasing to optometrists, but the ultimate lessee, the one who conducts the practice and sets the pattern, is the one who enters into the lease who may or may not hire employees of his own. None of the people except those who are covered by that grandfather clause in the previous legislation has more than the one branch office permitted by law.

As our last witness, I would like now to call Dr. Philip Young.

(Witness temporarily excused.)

PHILIP S. YOUNG,

called as a witness by the Committee, was examined and testified as follows:

THE WITNESS: Mr. Chairman, members of the committee, my name is Dr. Philip S. Young, 5956 Brayton Avenue, Long Beach, California.

My name is Dr. Philip S. Young. I am an optometrist, duly licensed to practice as such in the State of California, having received my license in 1954.

Since February of 1958, I have been employed as an optometrist by Dr. Samuel S. Gordon, whose office is located on the premises of Cal Stores, Lakewood, California.

In August, 1962, I opened my own office on the premises of GEM Stores, San Leandro, California.

At no time while I have been in the employ of Dr. Gordon has he used any but first quality materials, of the same type used by optometrists generally. This is also true of my own office. The attached letters in the brief from the suppliers of Dr. Gordon and myself substantiate this fact.

The office of Dr. Gordon in which I am employed, as well as my own, is new, modern in design, well lighted, and contains the most modern optical equipment. Both offices contain private, enclosed examination, refracting and dispensing rooms. They are clean and sanitary and there is no lack of facilities necessary for the proper practice of optometry. The attached pictures of Dr. Gordon's office will illustrate this point.

My instructions from Dr. Gordon with reference to attention to patients, as well as my own instructions to my employees, is to prescribe only for the needs of the patient. There is no high pressure or unnecessary selling. There is no limitation on the length of time to be spent with a patient. If the volume of business is such that we cannot handle all patients, our solution is to hire additional optometrists and not cut down on the care to each patient.

In planning our offices we make provisions for expansion. As an example, when I started with Dr. Gordon in 1958 he had a staff of one full time optometrist, one part time optometrist, one part time dispenser, and one full time girl, and we had two dispensing areas and one refraction room. At the present time we have two full time optometrists, two part time optometrists, one full time dispenser, one part time dispenser, one full time girl, one part time girl, and we have two dispensing areas, one contact lens room, two refracting rooms, and we are now in the process of building another refracting room.

The stores in which the offices of Dr. Gordon and myself are located conduct their business in a dignified manner, similar to any reputable department store. There is no undue noise or confusion, and the atmosphere of our offices is the same as any professional office. The stores from whom we lease space in no way control our clientele, our practice or our fee structure.

May I point out here that also on this fee structure basis that in the time that I have been with Dr. Gordon our fees have been changed four times, and in all of these changes, the store management was never consulted until after the fees were in operation, and they heard about it via the grapevine and merely asked if this was so.

These stores do not use a blatant advertising as do the more traditional department stores against which the proposed legislation is not intended to apply, and they in no way advertise optometric services.

We maintain regular fee schedules and never represent or infer that our fees are discounted. In fact, we could name other optometric offices in the community which regularly charge lower fees or claim that they charge no fees, or which regularly use blatant advertising, but as these offices are not located in mercantile stores, no legislation has been aimed at them.

The public has not complained about our practice. To the contrary, the public acceptance and referral has been great. I would like to state here that at the present time the referral rate of our particular practice in Lakewood runs better than forty per cent, and I think you'll find that if you look at figures given in text books, the average is somewhere around twenty or twenty-five per cent. The interests of the public have been protected in our offices far more than in some located in non-mercantile establishments. Both Dr. Gordon and myself are convinced that the proposed legislation is not advanced for the public welfare, but instead for the private economic welfare of those optometrists who support it.

Thank you for the opportunity to talk to you today.

CHAIRMAN THOMPSON: Doctor, will you treat a patient that doesn't have a GEM card?

THE WITNESS: Yes. We have instructions in all of our offices and the management agrees with us thoroughly, anyone can come in for professional services, which includes the pharmacy and the optometrists in the store.

CHAIRMAN THOMPSON: How does he get in?

THE WITNESS: All he has to do is state, "I wish to see the optometrist," or the doctor or the pharmacist, and he is allowed in the door.

CHAIRMAN THOMPSON: Your office is fully enclosed and has wash basins and so on?

THE WITNESS: We do not have wash basins in the sense of hot or cold running water to the facility. We have restrooms near by, but we do have water, commercial water dispensing units where we can wash our hands and things of this type. In other words, the sanitation of the public is most certainly taken care of and my own personal feeling is that anyone can inspect our offices and if they believe that they are unsanitary and the health would step in or we'd be more than happy to fix it up.

CHAIRMAN THOMPSON: Well, the GEM stores are supposed to cater to public employees, is that not right, people that work for the government?

THE WITNESS: They cater to --

CHAIRMAN THOMPSON: I mean only. That is the only way in which you can obtain a GEM card?

THE WITNESS: Well, let me answer this question this way: There are two types of so-called discount houses. There is the closed door and the open door. Now, the membership department store is called a closed door store. It requires a membership card to obtain entrance for buying. In other words, they have a qualified membership. This does not apply to the optometrists in the membership stores. In other words, any person is allowed to come in to see them. This is the policy that is established in all of them, and in the other aspect of the so-called discount houses, is the open door which has no membership requirement which anybody is allowed into.

CHAIRMAN THOMPSON: GEM is not that way.

THE WITNESS: GEM is a membership department store. It requires membership of federal employees, state, county workers, veterans, in other words, the memberships get pretty large, sir, because they like to have them.

CHAIRMAN THOMPSON: Well, I have maintained that everyone works for the government now anyway (laughter) because most of our money goes that way. Actually when we get our tax bills it goes that way.

Senator Sturgeon?

SENATOR STURGEON: Referring to your statement

about the referrals percentage which is apparently abnormally high, what would you attribute this to? Is it possible that these people refer their friends to you with the thought that perhaps they did get a bargain?

THE WITNESS: I think they refer -- let me answer that this way: I think that people go anywhere for any service. They consider first of all quality, they consider service, and they consider if you wish fee or price. Price is not the determining factor of all of this. If price were just the factor, they'd never come back because they can find it elsewhere at less price or at a higher price if they wish to shop. They come back because they receive quality, and putting it specifically to optometric practice, they receive quality work, and they refer because they feel they have received an optometric service, a professional service and they're entirely happy with it, and to answer it directly, very few patients come in that are referred and ask price. They merely ask for an appointment or ask if you have an opening and come in, and price is never discussed. I would honestly say that seventy per cent of the time your fee structure is never asked until after the examination.

SENATOR STURGEON: Thank you.

CHAIRMAN THOMPSON: Have you been in the office in San Jose?

THE WITNESS: Yes.

CHAIRMAN THOMPSON: Now that is not enclosed.

THE WITNESS: I'm sorry, sir, I didn't hear you.

CHAIRMAN THOMPSON: That is not enclosed.

THE WITNESS: The office in San Jose is enclosed -- let's explain this.

CHAIRMAN THOMPSON: I was in there and they showed me around.

THE WITNESS: Let me say that the refracting rooms where you are alone with your patients are enclosed. You always have -- every office, even a professional so-called office, has an area where people sit in a lobby or a waiting room and then are conducted into an examination room. This examination room in all cases that I know of is always enclosed, and you're completely alone with your patient.

CHAIRMAN THOMPSON: You better take another look at the one in San Jose.

THE WITNESS: I respectfully submit, sir, that the examination area is enclosed. The area where the frame bars, which is a waiting room, is open, but the examination area itself is.

CHAIRMAN THOMPSON: I was in there, though, and I told her why I was in there.

THE WITNESS: What?

CHAIRMAN THOMPSON: I was in there, and I told the young lady receptionist or whatever you would call her, exactly why I was in there, several months ago.

THE WITNESS: Did you go in the refraction room?

CHAIRMAN THOMPSON: Oh, yes.

THE WITNESS: This becomes a matter of definition of enclosure, it has ceiling and walls.

CHAIRMAN THOMPSON: Further questions? Thank you very much, doctor.

THE WITNESS: Thank you, sir.

(Witness excused)

J. HOWARD STURMAN,

called as a witness by the Committee, resumed the stand and testified further as follows:

THE WITNESS: I'd like to make two comments in closing. One is with respect to this last point, if in fact there are examination rooms in the State of California of any optometrical office that are not enclosed, examination rooms where the equipment is used and the eyes are tested, this association would certainly have no objection to a regulation which required such rooms to be enclosed. With respect to the point of memberships and being allowed to see the optometrist, I have here a bulletin recently issued by Unimart Stores which states -- I'll read -- since it's very short, I'll read it:

"In order to comply with California optometry

regulations, it is imperative that all membership desks and all supervisory personnel be informed that any person wishing to take advantage of the optometry services offered in Unimart is to have access to the optometry department. No membership is required."

This is the instructions because as I have stated and as I stated in Al Tahoe, our association is engaged in an educational process as well, the education being of the stores in which our members hold their leases. As to the requirements of the California law, and these stores have in every instance shown a complete willingness to abide by and cooperate in every way required by the law, and that is why I said at the outset of this hearing, or at the outset of my statement, that as this field of our economy has progressed, it has become more and more in compliance with our law and more and more in a fashion of any reputable, high grade, mercantile establishment, and I think that it will continue to in the future, and it is certainly not necessary for repressive legislation aimed at this one particular segment of our economy.

CHAIRMAN THOMPSON: In other words, your people would have no objection if they had a fully enclosed --

THE WITNESS: Examination room, yes.

CHAIRMAN THOMPSON: -- examination room.

THE WITNESS: We feel a requirement to enclose reception areas in a store such as this would be highly unreasonable, but that's a different matter. We do agree, though --

CHAIRMAN THOMPSON: And hot and cold running water?

THE WITNESS: If the health services in the optometric profession felt that hot and cold running water was a necessary sanitary requirement, we would have no objection to it, and the stores would comply. Optometrists I have spoken to state that they do not feel that in many of the offices that hot and cold running water right in the examination room is necessary. This is a determination, I think, for the people who establish what are minimum sanitary conditions, and as I have stated, any minimum sanitary condition that applies to all optometrists in the state will be supported by this association if it is in the public interest.

CHAIRMAN THOMPSON: Thank you very much.

THE WITNESS: Thank you very much.

(Witness excused)

CHAIRMAN THOMPSON: Should we adjourn until 2:00 o'clock?

SENATOR SLATTERY: Is there anyone in the audience who wishes to speak?

CHAIRMAN THOMPSON: Does anyone else wish to comment on this proposed bill that we have before us, on this last session of optometrists? You folks have completely finished?

DR. DEANE: Yes, we have.

CHAIRMAN THOMPSON: And you folks?

MR. STURMAN: Yes, we have, yes, sir.

CHAIRMAN THOMPSON: Now, the committee will write a report, and we will make recommendations to the 1963 Legislature. If any of you wish to address us at our office in San Jose, we will be very happy to receive any comment in that way. We all appreciate this very fine testimony from both groups, and of course we hope that we will make you all happy.

Now the committee will stand adjourned until 2:00 o'clock this afternoon.

(Whereupon at 12:20 p.m., the Committee adjourned for the noon recess.)

Certain defects were observed in this volume when it was received by University Microfilms, Inc. Since we were unable to locate a perfect copy, this volume was filmed as received.

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